

**Board of Adjustment
Minutes
September 28, 2004**

Chairman Eller declared that a quorum was present to conduct the meeting in accordance with the 'Open Public Meetings Law.'

Roll Call: Hurley, Nienstedt, Woykowski, Eller and Schlader – 5 Present.

Absent: Post, Mangiacotti and Semonche – 3 Absent.

Also Present: Stuart Ours, Esq., Board Attorney
Linda L. Hendershot, Clerk

Chairman Eller led everyone in the flag salute.

MINUTES:

Regular Meeting – August 24, 2004

Chairman Eller entertained additions or corrections to the minutes of the regular meeting held August 24, 2004.

Minor typos were noted on Page 3 and Page 5 of which the Clerk so noted. It was therefore moved by Schlader, seconded by Hurley that the minutes of the regular meeting held August 24, 2004 be approved as corrected.

Roll Call: Woykowski, Hurley, Schlader and Eller – Ayes: 4, Nays: 0.
Abstained: Nienstedt.

Motion carried.

RESOLUTIONS:

Case #2004:13 – Samuel Hicks, Garfield & Harrison Sts.

It was moved by Hurley, seconded by Schlader that this resolution be adopted as approved at the August meeting granting approval for the construction of a residential two-story home with conditions.

Roll Call: Eller, Schlader, Housel and Woykowski – Ayes: 4, Nays: 0.
Abstained: Nienstedt.

Motion carried.

Case #2004:14 – Raymond & Sue Ellen Schultes, 103 Sunrise Terrace

It was moved by Schlader, seconded by Woykowski that this resolution be adopted as approved at the August meeting granting approval for the construction of a deck and gazebo.

Roll Call: Woykowski, Hurley, Schlader and Eller – Ayes: 4, Nays: 0.
Abstained: Nienstedt.

Motion carried.

Case #2004:168 – Ryan Fedon, 199 Broad Street

It was moved by Woykowski, seconded by Hurley that this resolution be adopted as approved at the August meeting granting approval for the paving and extension of the driveway from 20 to 30 feet.

Roll Call: Schlader, Eller, Woykowski and Hurley – Ayes: 4, Nays: 0.
Abstained: Nienstedt.

Motion carried.

OLD BUSINESS:

Case #2004:15 – Eric Matland, 3 S. Prospect Street, Washington, NJ, Blk. 100, Lot 3

This application is filed for the purpose of installing a driveway 8.5' wide and 31' deep.

The application was tabled and the applicant was to provide additional information and explore alternatives.

Mr. Matland was already administered the oath from the last meeting.

Mr. Matland presented into evidence some scientific schematics giving facts and figures on visibility angles and setbacks of his driveway, the Bakery property across from his property, existing garages in the area of S. Prospect Street and an under-size driveway which pre-exists on Belvidere Avenue. He compared the width of his driveway to a parking space at the bakery to a garage door visibility width. If he parks in front of his property with the parking sticker he obtained the bakery will have problem with getting out of their driveway.

Visibility problems were discussed which was a concern to the Board. Mr. Matland testified that the Police Department, when contacted, did not know of any accidents on this street as a result of visibility problems.

Board member Hurley noted that it wasn't so much as the bakery couldn't see Mr. Matland. There was a concern with the increase in the volume of traffic on this street as a result of the business across the street from your residence and the visibility problem coming out of this driveway.

Chairman Eller noted that the Board has to look down the road to the future. He commended Mr. Matland for the scientific statistical information he furnished but this is based on the type of car Mr. Matland presently has. A larger vehicle would not fit in the proposed driveway requested. Chairman Eller noted that the Board suggested exploring other avenues of parking in the area.

Mr. Matland testified that he did check with ARC and there is no available parking in their lot available.

Mr. Hurley noted that he could not consider approving a variance for this driveway based on Mr. Matland having a certain size vehicle. The Board's main concern is the safety of vehicular traffic in backing out from this driveway. The scientific data material presented is based on Mr. Matland's car.

Mr. Matland alleged that the Board is being very opinionated and subjective to the evidence he has presented. He requested that his case be tabled and that he bring back additional information to the board on five different sized vehicles.

Board member Schlader noted that the Board must be concerned with the safety of the children walking in this area as well.

Mr. Matland stated that there is always risks in driving for whatever circumstances.

Board member Woykowski will not be voting on this application as she lives on South Prospect Street but she wanted the Board to know that she had an accident on this street with a car coming out of one of the side streets that was attributed to poor visibility.

Chairman Eller entertained questions or testimony from the audience. The record shows there was no one in the audience interested in this application.

Chairman Eller noted that the Board has to be concerned with the standards that are built into the Zoning and Land Development ordinance and whether deviating from these standards deems it safe and will not create a detriment to the public good. It was Chairman Eller's opinion that this project should not proceed as proposed. This driveway is not in an open area where visibility would not be a real issue. The driveway is too small and not really feasibility to fit in with the size and shape of the property.

Mr. Matland also presented into evidence some pictures for the record. He requested that it be tabled until next meeting. There were two Board members that were not present this evening that can listen to the tape. Mr. Matland consented to an extension of his application until the next meeting in October.

Case #2204:17 – David & Julia Wulf, 5 McKinley Avenue, Washington, NJ., Blk. 47, Lot 1

This application is filed for the purpose of enclosing an existing carport with a garage door and expanding drive opening and parking area.

In the Zoning Officer's Refusal of Permit this request was denied for noncompliance with the provisions of Section(s) 94-37D, 94-53K 7 and 10 of the Municipal Zoning Ordinance for the following reasons: An accessory building may be erected in the side or rear yard only. If erected on a corner lot, it shall be set back from the side street to comply with the setback line of the principal building. Driveways must be macadam and not more than 15' in size.

The attorney reviewed the notices of service and affidavit of publication and found the application in order to proceed.

The Oath was administered Mr. Wulf.

Mr. Wulf testified that the existing carport was there since 1997 and that five years ago he put siding on it and enclosed it. There is a shed on the easterly side of the house off Adams Street. Several alternative solutions were discussed by the Board to try and alleviate the two driveway openings that presently exist.

Mr. Bescherer, Code Enforcement Officer requested that he talk to the applicant in private to try and work out an amicable solution for the use of this property. He suggested moving on to the next case and come back to Mr. Wulf's application.

The Board concurred with Mr. Bescherer's suggestion.

Case #2004:18 – Jay Ferguson, 70 Grand Avenue, Washington, NJ, Blk. 15.01, Lot 3

This application is filed for the purpose of replacement of an existing shed with a new shed of the same size in the same location.

In the Zoning Officer's Refusal of Permit this request was denied for noncompliance with the provisions of Section(s) 94-37 B of the Municipal Zoning Ordinance for the following reasons: The minimum distance of any accessory building to a property line shall be five (5') feet.

The attorney reviewed the notices of service and affidavit of publication and found the application in order to proceed.

Mr. Ferguson stated that the shed that is presently on his property is on a solid foundation but the shed is a sad state of disrepair and needs replacing. It would be an extreme hardship for him to remove this foundation to re-build the shed. The shed will be of the same size but instead of being 5' in height it will be 6' in height. He further testified that his neighbor has a shed that is also relatively near the property line adjacent to his property. Replacing the shed will aesthetically improve the neighborhood.

Chairman Eller asked for questions or testimony from the audience. There was noone in the audience who had any questions or testimony regarding this property.

The Board members had no major questions of the applicant.

Attorney Ours reviewed the criteria necessary for the granting of this hardship variance or a "C" variance.

It was therefore moved by Woykowski, seconded by Nienstedt that the Board approve a variance for the replacement of this shed to be re-built on the existing slab based on improving the aesthetics of the neighborhood and the general scheme of the neighborhood, it will not be a detriment to the public good, nor will it substantially impair the intent and purpose of the zone plan.

Roll Call: Eller, Schlader, Hurley, Woykowski and Nienstedt.

Ayes: 5, Nays: 0.

Motion carried.

(Resolution Annexed to the Minutes).

Case #2004:17 – David & Julia Wulf, 5 McKinley Avenue, Washington, NJ, Blk. 47, Lot 1 (Continued)

Mr. Bescherer and Mr. Wulf came back to the Board with a proposed amendment to the plan. Mr. Wulf proposed to be allowed to leave the garage as is have a 10' x 20' wide paved parking area adjacent to the garage for parking and that the driveway opening on Fillmore Street be reduced to a fifteen (15') width.

Attorney Ours suggested that Mr. Wulf amend his drawing to depict what he was proposed to do.

Attorney Ours reviewed the criteria necessary for the granting of this variance for the Board.

It was therefore moved by Nienstedt, seconded by Hurley that the Board grant this variance for 5 McKinley Avenue to expand the driveway adjacent to the garage 10' wide x 30' and that the garage remain in tact with a 15' wide driveway opening on Fillmore Street, this variance being granted due to the unusual shape the size and of this lot, it will be no detriment to the public good, nor will it impair the intent and purpose of the zone plan.

Roll Call: Eller, Schlader, Hurley, Woykowski and Nienstedt.

Ayes: 5, Nays: 0.
Motion carried.

(Resolution Annexed to the Minutes)

COMMUNICATIONS:

Letter from A. Lowcher Esq. RE: Samuel Hicks Application

A letter was presented from the Emergency Squad confirming that emergency services will be provided to the Hicks property. This communication was acknowledged, received and filed.

NJ Federation Planner

This newsletter was acknowledged, received and filed.

Hearing no further business to come before the Board, it was moved by Schlader, seconded by Hurley that the meeting be adjourned at 10:05 PM.

Ayes: 5, Nays: 0.
Motion carried.

Respectfully submitted,

Frank Mangiacotti, Secretary